

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

ELIZABETH O'SHAUGHNESSY,)
MICHAEL O'SHAUGHNESSY, and)
RANDALL L. HENSLEY, Individually)
and on Behalf of Others Similarly Situated,)
)
Plaintiffs,)
)
v.)
)
THE McCLATCHY COMPANY,)
)
Defendant.)

No. 4:13-cv-00492-DGK

ORDER RECOGNIZING VOLUNTARY DISMISSAL WITHOUT PREJUDICE

This putative class-action lawsuit alleges that Defendant The McClatchy Company ("McClatchy"), a publisher of twenty-nine newspapers in fifteen states, unlawfully double billed some of its subscribers in the period between when their original subscription ended and a renewal began. This lawsuit was originally filed in the Circuit Court of Jackson County, Missouri, and then removed to federal court based on the Court's diversity jurisdiction and Class Action Fairness Act ("CAFA") jurisdiction, 28 U.S.C. §§ 1332, 1441, 1446, and 1453.

Now before the Court is Plaintiffs' "Notice of Voluntary Dismissal Without Prejudice" (Doc. 20) brought pursuant to Rule 41(a). Defendant objects to the notice, arguing Rule 23(e) requires court approval of any voluntary dismissal of a putative class action. Rule 23(e) provides that "[t]he claims, issues, or defenses of a *certified* class may be settled, voluntarily dismissed, or compromised only with the court's approval." Fed. R. Civ. P. 23(e) (emphasis added). Since the plain language of the rule states that it applies to certified classes only, Defendant's objection is overruled.

Defendant never filed an answer or a motion for summary judgment, therefore Plaintiffs had a right to voluntary dismissal without prejudice under Rule 41(a), and they have exercised it. The Court recognizes this case has been dismissed without prejudice.

IT IS SO ORDERED.

Date: August 14, 2013

/s/ Greg Kays
GREG KAYS, JUDGE
UNITED STATES DISTRICT COURT